

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ARTHUR GREER,

Plaintiff,

CIVIL ACTION NO. 05-CV-71629-DT

vs.

DISTRICT JUDGE ARTHUR J. TARNOW

NICK LUDWICK,
et. al,

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendants.

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**ORDER DENYING DEFENDANTS' MOTION FOR PROTECTIVE ORDER STAYING
DISCOVERY, DENYING PLAINTIFF'S MOTION TO COMPEL DISCOVERY AND
DENYING PLAINTIFF'S MOTION TO EXTEND DISCOVERY**

Plaintiff filed the instant complaint and an application to proceed *in forma pauperis* on April 26, 2005 pursuant to both 42 U.S.C. § 1983 and the Americans with Disabilities Act, 42 U.S.C. § 12132 *et. seq.* Plaintiff contends that the Defendants violated his constitutionally secured civil rights. The Defendants to this action are James Armstrong, Manager of MDOC's Prisoner Affairs Section; Nick Ludwick, Warden at MDOC's Charles E. Egeler Reception and Guidance Center ("RGC"); Linda Verlin, Assistant Deputy Warden, RGC; Kevin Jones, Corrections Resident Representative at RGC; Scott Portt, Resident Unit Officer, RGC; Kathy Honton, Librarian, RGC; Frederick Hartman, Resident Unit Officer, RGC; Jason Duncan, Resident Unit Officer, RGC; Rose Pelham, R.N., Duane L. Waters Hospital; Joseph Smith, Corrections Officer at MDOC's Muskegon Correctional Facility; [Viher] and Diane Bates, Corrections Officer at RGC. The case was referred to the undersigned for all pretrial proceedings on June 7, 2005.

On February 17, 2006 Plaintiff filed a Motion to Compel Discovery, seeking copies of written grievances, log books, medical records, and the “final disposition” of MDOC’s termination of Defendant Bates as an employee. Defendants have not directly responded to Plaintiff’s Motion. Rather, Defendants filed a Motion for Protective Order Staying Discovery on February 22, 2006. Defendants argued that Discovery should be stayed because Defendants had filed a motion to dismiss, which was pending at that time, and that the motion would dispose of the case. On March 20, 2006 the Honorable Arthur J. Tarnow entered an order adopting a report and recommendation of the undersigned that some but not all of Plaintiff’s claims be dismissed. Plaintiff filed a Motion to Extend Discovery on April 26, 2006. Defendants have not responded to Plaintiff’s Motion to Extend Discovery. The time for response on the various motions has lapsed, and the Court has dispensed with oral argument pursuant to Local Rule 7.1.

Because Plaintiff’s claims have survived Defendants’ motion to dismiss, there is no longer any reason to stay discovery pending the result of that motion. Defendants’ Motion to Stay is therefore **DENIED**.

Defendants have not responded to Plaintiff’s motion to compel discovery. The documents Plaintiff seeks may be relevant and not privileged, but Plaintiff has not served requests for the production of documents on Defendants pursuant to Federal Rule of Civil Procedure 26 and 34. Plaintiff’s Motion to Compel is therefore **DENIED** without prejudice.

Defendants have not responded to Plaintiff’s Motion to Extend Discovery. Plaintiff’s Motion seeks an extension of the discovery deadlines and a copy of this Court’s most recent scheduling order, which Plaintiff claims not to have received as of the time his motion was filed. On May 10, 2006, the Court mailed an additional copy of the most recent scheduling order to Plaintiff’s address,

which extended the discovery period. Discovery is currently scheduled to close on September 20, 2006. Because substantial time for discovery remains under the current scheduling order, an alteration of the order under Federal Rule of Civil Procedure 6(b) is inappropriate at this time. Plaintiff's Motion to Extend Discovery is therefore **DENIED**.

IT IS SO ORDERED.

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: June 20, 2005

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

Proof of Service

I hereby certify that a copy of this Order was served upon Arthur Greer and Counsel of Record on this date.

Dated: June 20, 2005

s/ Lisa C. Bartlett
Courtroom Deputy